

---

**SUBSTITUTE SENATE BILL 6660**

---

**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Health & Long-Term Care (originally sponsored by Senators Pridemore, Pflug, and Rasmussen)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to area agencies; amending RCW 74.38.020 and  
2 74.38.030; adding new sections to chapter 74.38 RCW; and declaring an  
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 74.38.020 and 1989 1st ex.s. c 9 s 817 are each  
6 amended to read as follows:

7 As used in this chapter, the following words and phrases shall have  
8 the following meaning unless the content clearly requires otherwise:

9 (1) "Area agency" means ((an)) any public or private nonprofit  
10 agency, other than a state agency, permitted under the Older Americans  
11 Act (42 U.S.C. Sec. 3001 et seq.), and designated by the department to  
12 carry out programs or services approved by the department in a  
13 designated geographical area of the state.

14 (2) "Area plan" means the document submitted annually by an area  
15 agency to the department for approval which sets forth (a) goals and  
16 measurable objectives, (b) review of past expenditures and accounting  
17 of revenue for the previous year, (c) estimated revenue and  
18 expenditures for the ensuing year, and (d) the planning, coordination,

1 administration, social services, and evaluation activities to be  
2 undertaken to carry out the purposes of the Older Americans Act of 1965  
3 (42 U.S.C. Sec. (~~3024~~) 3001 et seq.), as now or hereafter amended.

4 (3) "Department" means the department of social and health  
5 services.

6 (4) "Office" shall mean the office on aging which is the  
7 organizational unit within the department responsible for coordinating  
8 and administering aging problems.

9 (5) "Eligible persons" means (~~(senior citizens)~~) persons who are:

10 (a) Sixty-five years of age or more; or

11 (b) Sixty years of age or more (~~(and are either (i) nonemployed, or~~  
12 ~~(ii) employed for twenty hours per week or less))~~ or as defined by the  
13 Older Americans Act (42 U.S.C. Sec. 3001 et seq.); and

14 (c) In need of services to enable them to remain in their customary  
15 homes because of physical, mental, or other debilitating impairments.

16 (6) "Low income" means initial resources or subsequent income at or  
17 below forty percent of the state median income as promulgated by the  
18 secretary of the United States department of health(~~(, education and~~  
19 ~~welfare))~~ and human services for Title XX of the Social Security Act,  
20 or, in the alternative, a level determined by the department and  
21 approved by the legislature.

22 (7) "Income" shall have the same meaning as in chapter 74.04 RCW,  
23 as now or hereafter amended; except, that money received from RCW  
24 74.38.060 shall be excluded from this definition.

25 (8) "Resource" shall have the same meaning as in chapter 74.04 RCW,  
26 as now or hereafter amended.

27 (9) "Need" shall have the same meaning as in chapter 74.04 RCW, as  
28 now or hereafter amended.

29 (10) "Single-purpose area agency" means a public or nonprofit  
30 entity that serves a group of clients and beneficiaries at least fifty-  
31 five percent of whom are as described in the Older Americans Act (42  
32 U.S.C. 3001 et seq.), as now or hereafter amended.

33 NEW SECTION. Sec. 2. A new section is added to chapter 74.38 RCW  
34 to read as follows:

35 The department shall establish in rule processes and procedures for  
36 removing the designation of an area agency on aging. When establishing  
37 rules, the department must consult with currently designated area

1 agencies on aging. Rules must include actions that would be taken when  
2 an area agency on aging fails to comply with the terms of a contract  
3 which governs the use of funds provided under its contract. The rules  
4 must address situations requiring technical assistance, fiscal  
5 monitoring, imposing sanctions, corrective action plans, failure to  
6 address deficiencies, threats to health and safety, ongoing breach of  
7 contract, and other violations.

8 **Sec. 3.** RCW 74.38.030 and 1975-'76 2nd ex.s. c 131 s 3 are each  
9 amended to read as follows:

10 (1) The program of community based services authorized under this  
11 chapter shall be administered by the department. Such services may be  
12 provided by the department or through purchase of service contracts,  
13 vendor payments or direct client grants.

14 The department shall, under stipend or grant programs provided  
15 under RCW 74.38.060, utilize, to the maximum staffing level possible,  
16 eligible persons in its administration, supervision, and operation.

17 (2) The department shall be responsible for planning, coordination,  
18 monitoring and evaluation of services provided under this chapter but  
19 shall avoid duplication of services.

20 (3) The department may designate area agencies in cities of not  
21 less than twenty thousand population or in regional areas within the  
22 state. These agencies shall submit area plans, as required by the  
23 department. They shall also submit, in the manner prescribed by the  
24 department, such other program or fiscal data as may be required.

25 (4) The department shall develop an annual state plan pursuant to  
26 the Older Americans Act of 1965, as now or hereafter amended. This  
27 plan shall include, but not be limited to:

28 (a) Area agencies' programs and services approved by the  
29 department;

30 (b) Other programs and services authorized by the department; and

31 (c) Coordination of all programs and services.

32 (5) The department shall establish rules and regulations for the  
33 determination of low income eligible persons. Such determination shall  
34 be related to need based on the initial resources and subsequent income  
35 of the person entering into a program or service. This determination  
36 shall not prevent the eligible person from utilizing a program or  
37 service provided by the department or area agency. However, if the

1 determination is that such eligible person is nonlow income, the  
2 provision of RCW 74.38.050 shall be applied as of the date of such  
3 determination.

4 (6) Area agencies on aging designated under this section may  
5 provide directly, or through contract, any or all services authorized  
6 under this chapter and the Older Americans Act to eligible individuals.

7 NEW SECTION. Sec. 4. A new section is added to chapter 74.38 RCW  
8 to read as follows:

9 (1) The secretary may designate a single purpose or multipurpose  
10 agency to serve as an area agency on aging. In designating or  
11 dedesignating an area agency on aging, the secretary shall not  
12 discriminate between a public agency and a private nonprofit agency.

13 (2) Prior to dedesignating an area agency on aging, the secretary  
14 shall consult with the governing board and the director of the area  
15 agency on aging and the chief elected official of the affected local  
16 government and engage in facilitated mediation in good faith. The  
17 secretary may only dedesignate an area agency on aging if it can be  
18 shown that the area agency on aging has (a) not complied with  
19 applicable federal or state laws or rules, (b) expended funds for  
20 purposes other than the purpose for which they were intended, or (c)  
21 failed to provide appropriate services for the elderly within available  
22 resources. The decision to dedesignate an area agency on aging is  
23 appealable to the governor after requesting a reconsideration by the  
24 secretary.

25 NEW SECTION. Sec. 5. A new section is added to chapter 74.38 RCW  
26 to read as follows:

27 The provision of services to nonolder adult individuals so as to  
28 increase provision of services for older individuals shall not be  
29 construed as prohibited if the provision of such services is by using  
30 funds from other sources by an area agency nor does the provision of  
31 such services change the area agency single purpose status. The  
32 department may not impose policies, rules, or regulations that are more  
33 restrictive than regulations mandated for nonmedicaid federally funded  
34 services under the federal Older Americans Act.

1        NEW SECTION.   **Sec. 6.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   immediately.

--- END ---